

REMARKS / ARGUMENTS

The present application includes pending claims 1-22, all of which have been rejected. Claims 1-22 are now cancelled. New claims 23-42 are introduced. Claims 23 and 30 are independent claims. Claims 24-29 and 31-42 depend from independent claims 23 and 30, respectively. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-2 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Teele '996. Claims 7-8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teele '966. Claims 1-22 stand rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-22 of prior U.S. Patent No. 6,702,758. This is a double patenting rejection. The Applicant respectfully traverses these rejections at least based on the following remarks.

REJECTIONS UNDER 35 U.S.C. § 102

I. Teele Does Not Anticipate Claims 23-42

A. Rejection of Independent Claims 23 and 30 under 35 U.S.C. § 102(b)

As stated above, the Applicant has cancelled claims 1-22 and has introduced new claims 23-42. With regard to a rejection of claim 23 under 35 U.S.C. § 102(b), the Applicant submits that Teele does not disclose or suggest at least the limitation of "a testing probe operatively coupled to the housing, wherein

the testing probe generates electrical signals based on otoacoustic emissions of the inner ear of a test subject, when the testing probe is inserted into the ear canal of the test subject," as recited by the Applicant in independent claim 23.

Accordingly, independent claim 23 is not anticipated by Teele and is allowable. Independent claim 30 is similar in many respects to the apparatus disclosed in independent claim 23. Therefore, the Applicant submits that independent claim 30 is also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 23.

B. Rejection of Dependent Claims 24-29 and 31-42

Based on at least the foregoing, the Applicant believes the rejection of independent claims 23 and 30 under 35 U.S.C. § 102(b) as being anticipated by Teele has been overcome and requests that the rejection be withdrawn. Additionally, claims 24-29 and 31-42 depend from independent claims 23 and 30, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 23-42.

II. CLAIM REJECTIONS UNDER 35 U.S.C. § 103

The Applicant points out that any potential rejection of claims 23-42 under 35 U.S.C. § 103(a) as being unpatentable over Teele is overcome based on the reasoning stated above with regard to the 35 U.S.C. § 102(b) rejections (Section I of this response).

III. Double Patenting Rejection

Claims 1-22 stand rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-22 of prior U.S. Patent No. 6,702,758. The Applicant has cancelled claims 1-22 and has introduced new claims 23-42. The new claims 23-42 are not coextensive in scope with the claims of prior U.S. Patent No. 6,702,758. Therefore, the double patenting rejection should be withdrawn.

IV. New Claims 23-42

The Applicant has cancelled claims 1-22 and has introduced new claims 23-42. Support for the new claims 23-42 may be found in the specification of the present application at, for example, pages 8-19, and corresponding Figures 1A-12B. The Applicant submits that no new matter has been introduced by the new claims 23-42, and claims 23-42 are allowable.

CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 23-42 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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